



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 20.07.2022

PRONOUNCED ON : 11.10.2022

WEB COPY

C O R A M

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (Md) No.14996 of 2022
and W.M.P. (Md) No.10730 of 2022

Selvarani.M. ... Petitioners

vs.

- 1.The Government of Tamilnadu
Rep.by its Principal Secretary
Rural Development and Panchayat Raj
Department, Fort St.George, Chennai 600 009.
- 2.The Inspector of Panchayat / District Collector
Collectorate Campus, Dindigul District
Dindigul.
- 3.The Assistant Director of Panchayat
Collectorate Campus, Dindigul District, Dindigul.
- 4.The Tahsildar
O/o Tahsildar, Dindigul,
Dindigul District. ... Respondents

Prayer: Writ petition filed under Article 226 of Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the 2nd respondent in its proceedings in Na.Ka.No.6109/2021/A4 dated 26.06.2022 (Sunday) and quash the same as devoid of merits and consequently cancel the notification No.Vi (2)/66(b)/2022 published in the Government Gazette dated 28.06.2022 and allow the petitioner to continue as the President of Pushpathur Panchayat, Thoppampatti Panchayat Union, Palani Taluk, Dindigul District.

For Petitioners : Mr.K.Govindarajan
for M/s.Ananth C.Rajesh

For Respondents : Mr.Veerakathiravan
Additional Advocate General
assisted by Mr.K.Balasubramani
Special Government Pleader



O R D E R

Heard the learned counsel on either side.

2. The writ petitioner was elected as the President of Pushpathur Panchayat. She was served with show cause notice dated 11.04.2022 under Section 205(1)(a) of the Tamil Nadu Panchayats Act. It was a suo-motu action initiated by the Inspector of Panchayats. The petitioner offered her explanation dated 23.04.2022. Without considering her explanation, the Inspector of Panchayats directed the the Tahsildar to issue notice for convening the meeting of the Panchayat to ascertain the views of the members. Questioning the same, the petitioner has filed W.P.(Md) No.10157 of 2022. The writ petition was allowed vide order dated 20.05.2022. The notice for convening the meeting was quashed. Liberty was however given to the authority to proceed from the stage of Section 205(3) of the Act. Availing the said liberty, the Inspector of Panchayats directed the Assistant Director of Panchayats to submit his report and the said report dealt with the explanation of the writ petitioner item wise. The Inspector of Panchayats came to the conclusion that the petitioner's explanation was not satisfactory. He therefore directed the jurisdictional Tahsildar to convene the meeting of the members of the Panchayat for consideration of the proposal for removal of the writ petitioner from the post of President and for ascertaining their views. Pursuant to the said direction, the jurisdictional Tahsildar issued communication dated 10.06.2022 proposing to convene the meeting on 23.06.2022.

3. The notice of the Tahsildar was challenged again in W.P. (MD) No.12675 of 2022. The said writ petition was dismissed on 22.06.2022 and the meeting was held as scheduled. The Tahsildar submitted his report stating that 7 ward members supported the motion for removal while 5 members opposed the proposal. The District Collector was satisfied that the majority of the members have endorsed the proposal to remove the writ petitioner from the post. Thereupon he passed the impugned order dated 26.06.2022 under Section 205(11) of the Act. It was also duly published in the gazette on 28.06.2022. Challenging the removal this writ petition has been filed.

4. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition. He asserted that during the meeting there was a tie and that the Tahsildar has falsely recorded that the majority of the members were against the writ petitioner. The case was listed for admission on 12.07.2022. I directed the members supporting the writ petitioner to appear before me and also file affidavits. The writ petitioner was able to produce 6 members of the Panchayat before me. They filed individual affidavits. They affirmed that during the meeting held on 23.06.2022 they did not support the motion for removal of the writ petitioner.



5. The respondents have filed a detailed counter affidavit. The learned Additional Advocate General reiterated all the contentions set out therein. He also produced the register containing the signatures of the members of the Panchayat. He asserted that one person has been won over. He emphasized that what matters is what happened during the meeting. The subsequent development will have to be ignored. Otherwise, that would encourage horse trading. He called for dismissal of the writ petition. He added that the petitioner has an alternative remedy of appeal, she ought not to have invoked the writ jurisdiction.

6. I carefully considered the rival contentions and went through the materials on record.

7. Section 205 of the Act empowers the Inspector of Panchayats to remove the Panchayat President on his own motion. The procedure for removal is set out in the sub-sections of Section 205. It contemplates convening of meeting by the Tahsildar during which the Tahsildar shall read the notice of the Inspector and the explanation if any of the Panchayat President and the proposal for removal of the President. The Tahsildar shall not speak on the merits of the notice or explanation nor shall he be entitled to vote at the meeting. The views of the village panchayat shall be duly recorded in the minutes of the meeting and a copy of the minutes shall forthwith on the termination of the meeting be forwarded by the Tahsildar to the Inspector. The Inspector may after considering the views of the Village Panchayat in this regard, in his discretion, either remove the President from office or drop further action.

8. From the statutory scheme, it is evident that the views of the Village Panchayat are material and relevant. The Inspector can pass final order only after considering the same. Whether the proposal to remove the President was endorsed by the majority of the members or not is equally material. It does have legal implication and consequence. In this case, the Tahsildar has recorded that 7 members did not support the writ petitioner and that she enjoyed the support of only 5 members. The case of the writ petitioner is that there was a tie.

9. Sub-section (10) of Section 205 of the Act mandates that the views of the Village Panchayat shall be duly recorded in the minutes of the meeting. Sub-section (8) states that the Tahsildar shall read to the Village Panchayat the matters set out therein. Sub-Section (9) states that the Tahsildar shall not speak on the merits of the matter. Sub-section (10) is not in active voice but in passive voice. It reads as follows:

" (10) The views of the Village Panchayat shall be duly recorded in the minutes of the meeting and a copy of the minutes shall forthwith on the termination of the



meeting be forwarded by the Tahsildar to the Inspector."

10. The aforesaid provision is in two parts. The first part talks of recording the views of the Village Panchayat in the minutes. The second part relates to forwarding the minutes. The provision does not state that the Tahsildar shall record the views. In this case, in the register, the Tahsildar has written the relevant line regarding the proposal and signature alone has been obtained from the members. But in the very same register in other cases, the members themselves have written down their views. The proceedings have not been videographed. After the meeting was over, the writ petitioner held a press conference in which she asserted that there was a tie and that the Tahsildar has not properly recorded the minutes. Along with her, 6 other ward members were present. Before me, the writ petitioner could secure the presence of all the six members. This clearly probabilises the case of the writ petitioner. I am satisfied that the views of the village panchayat was not "duly recorded". More than anything else, in matters relating to unseating of the elected Presidents, the court has to give the benefit of doubt in favour of the elected representative. The Inspector of Panchayats has proceeded on the premise that the majority of the Panchayat is against the writ petitioner. This is incorrect. Therefore, the order impugned in the writ petition is set aside. The writ petitioner shall continue as Panchayat President. It is open to the Inspector of Panchayats to proceed on the matter on the assumption that there was a tie during the meeting. The writ petition is allowed with the aforesaid liberty to the Inspector of Panchayats. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/11/2022

Sub Assistant Registrar (CS)

KST
To

1. The Government of Tamilnadu
Rep. by its Principal Secretary
Rural Development and Panchayat Raj
Department, Fort St. George, Chennai 600 009.
2. The Inspector of Panchayat / District Collector
Collectorate Campus, Dindigul District
Dindigul.



3.The Assistant Director of Panchayat
Collectorate Campus, Dindigul District
Dindigul.

4.The Tahsildar
O/o Tahsildar, Dindigul,
Dindigul District.

+1 CC to M/s.SPL.GP (SR-48931[F] dated 12/10/2022)

+1 CC to M/s.ANANTH C.RAJESH, Advocate (SR-49091[F] dated
12/10/2022)

W.P. (Md) No.14996 of 2022

Dated :11.10.2022

AMS (31.10.2022) 5P 7C